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Appl. No. 10/798,079  
Amdt. Dated July 3, 2007  
Reply to Office action of March 6, 2007

**REMARKS/ARGUMENTS*****Section 101***

As stated in the office action, claims 1-88 are still pending. It is noted that claims 22 - 30 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. The office action notes that the claims directed toward "a method for detecting unauthorized activity" are non-statutory because they do not encompass tangible subject matter and/or embodiments which fall within a statutory category. The office action further states that the claims make no mention of a tangible medium wherein existing code may be processed to perform the recited steps. (citing State Street Bank & Trust Co. v. Signature Financial Group Inc., 149 F.3d at 1373, 47 USPQ2d at 1601-02).

In view of the rejection of the claims, Applicants have cancelled claims 22 and 23, without prejudice or disclaimer, and have added claims 89 and 90 to further include the limitations and clarification to direct the claims to statutory subject matter. A claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994). Applicants believe that the new claims are clearly directed to statutory subject matter.

***Section 102(b)***

The Examiner has rejected claims 22 - 23 under 35 U.S.C. 102(b) as being anticipated by Bapat (U.S. Pat. No. 6,038,563), hereinafter referred to as "Bapat." In

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view of the Examiner's rejection of the claims, Applicants have cancelled claims 22 - 23, without prejudice or disclaimer, and has added claims 89 and 90 to further include the limitations and clarification to overcome the prior art. New claim 90 does not require a user to request information from "tables", nor does the Applicants' claimed invention require a "SQL engine" to reject said request, as required by Bapat.

It is respectfully submitted that the new claims 89 and 90 clearly and patentably distinguish over the prior art. It is further submitted that even the broadest construction of the reference cited would not lead one having ordinary skill in the art to conclude the new claims read on the cited reference. In view of these considerations, it is respectfully submitted that the rejection of the claims 22-23 should be considered as no longer tenable with respect to the new claims 89-90.

*Section 103(a)*

It is noted that the Examiner has rejected claims 24 and 26-30 as being unpatentable over Bapat in view of Rowland (U.S. Pat. No. 6,405,318), hereinafter referred to as "Rowland." The office action indicated that the arguments made in rejecting claims 22 and 23 were, by the principle of dependence, to be applied to the claims rejected for obviousness. Similarly, Applicants reassert the arguments made in support of new claims 89-90, in support of new claims 91-97.

It is further noted that the rejection of claim 25 takes official notice of the fact that it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide security checks for unauthorized activity in a data dictionary. Applicants respectfully disagree with the use of official notice in the office action

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because the office action did not provide any evidence in support. Without evidentiary support in the record, it is not appropriate to rely solely on "common knowledge" as the principal evidence upon which a rejection was based. In re Zurko, 258 F.3d 1379, 1385, 59 USPQ2d 1693,1697 (Fed. Cir. 2001). If necessary, Applicants respectfully request some evidence in the record in support of the use of official notice. If the rejection relies on personal knowledge to support the finding of what is known in the art, Applicants request an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2).

In view of the rejections, Applicants have cancelled claims 24-30, without prejudice or disclaimer, and have added claims 91-97 to further include the limitations and clarification to overcome the prior art.

It is respectfully submitted that new claims 91-97 clearly and patentably distinguish over the prior art, since it is believed that the construction defined in these claims differs essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the new claims 89-97 and should be withdrawn. New claims 89-97 should be considered as patentably distinguishing over the art and should be allowed.

### CONCLUSION

Applicants believe that the above places the application in a condition for allowance.

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Respectfully submitted,

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